

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Retention by Broadcasters of)	MB Docket No. 04-232
Program Recordings)	

To: The Commission

COMMENTS OF EQUITY BROADCASTING CORPORATION

1. Equity Broadcasting Corporation (“EBC”), hereby submits its Comments in response to the Notice of Proposed Rule Making in this proceeding, FCC 04-145, released July 7, 2004. EBC, itself and through wholly owned subsidiaries, is the licensee of full power television stations, Class A, and Low Power Television (“LPTV”) stations across the country. For many of these stations, which are located in small markets where advertising revenue is scarce, EBC has been responsible for the initial construction and operating costs, which are significant. EBC opposes the proposed recording requirement, because it would place an undue burden on EBC, is an overly broad approach that burdens all stations because of problems caused by only a few stations, and it would make it even more difficult for EBC to produce and provide local programming that properly serves the public interest.

2. EBC submits the indecency problem, which the Commission appears to be trying to address, is not pervasive in EBC’s programming choices, and not in the broadcasting industry in general. The problem, to the extent it exists, is focused on a few programs broadcast by a relatively small number of stations. The Commission’s proposed solution is overreaching and would be an undue financial burden on EBC, threatening EBC’s ability to provide new broadcast service in areas where service might otherwise be unavailable. Purchasing, operating, and maintaining recording equipment and storage media for up to 90 days of 24-hour-a-day

programming will divert significant resources away from what EBC could otherwise devote to local programming and to other operational aspects. Considering the recent emphasis on encouraging local programming, evidenced by the ongoing proceedings in MB Docket No. 04-233 and the recent localism hearings in Charlotte, NC, San Antonio, TX, Rapid City, SD, and Monterey, CA, it is contradictory, if not worse, for the FCC to create an undue regulatory burden that would have a chilling effect on the creation of local programming.

3. If a recording requirement is ultimately adopted, however, EBC submits it should be done under a “one strike” policy, whereby it will only be required for stations that have had indecency complaints filed against them at the FCC, and for which the FCC has commenced enforcement action, conducted an inquiry and issued a Notice of Apparent Liability. This would help in ensuring only those certain stations, and in turn, the particular network and syndicator, that are of primary concern to the Commission have the additional recording burden. That way the entire broadcast industry will not be blamed for the sins of a few. And, because of the technical and manpower costs that will no doubt be associated with the storing of programming, EBC further submits that any recording be allowed in compressed formats, and does not have to be broadcast-quality.

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Respectfully submitted,

/s/ Lori Withrow
Corporate Secretary

August 27, 2004